

BEST AVAILABLE COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): CHANG, Hoon et al. ~~2004 NOV 29 PM 5:00~~ Examiner: NGUYEN, Steven H.D.

Serial No.: 09/580,683

Group Art Unit: 2665

Filed: May 30, 2000

Docket: 678-498 (P9202)

For: **APPARATUS AND METHOD FOR TRANSMITTING VARIABLE LENGTH DATA
ACCORDING TO A RADIO LINK PROTOCOL IN A MOBILE
COMMUNICATION SYSTEM**

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: Refund Section
Accounting Division
Office of Finance

REQUEST FOR REFUND

Sir:

I. REFUND REQUEST

This is a request for a refund with respect to a payment for a Notice of Appeal and third month extension of time incurred because of a delay that is believe to have been caused by the U.S. Patent and Trademark Office with respect to the above-identified application.

CERTIFICATION UNDER 37 C.F.R. §1.8 (a)

I hereby certify that this paper is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Refund Section, Accounting Division, Office of Finance, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: November 24, 2004


Michael J. Musella

II. FEES CHARGED FOR WHICH REFUND IS REQUESTED**AMOUNT OF REFUND REQUESTED**

<input type="checkbox"/>	filing fee	_____
<input type="checkbox"/>	surcharge for filing the basic filing fee on a date later than the filing date of the application (37 C.F.R. §1.16(e))	
	and/or	
<input type="checkbox"/>	surcharge for filing the oath or declaration on a date later than the filing date of the application (37 C.F.R. §1.16(e))	
<input type="checkbox"/>	extension of term	
<input type="checkbox"/>	first month	_____
<input type="checkbox"/>	second month	_____
<input checked="" type="checkbox"/>	third month	<u>\$ 530.00</u>
<input type="checkbox"/>	fourth month	_____
<input type="checkbox"/>	excess claims	_____
<input type="checkbox"/>	issue fee	_____
<input type="checkbox"/>	petition fee	_____
<input type="checkbox"/>	patent maintenance fee	_____
<input type="checkbox"/>	first maintenance fee	_____
<input type="checkbox"/>	second maintenance fee	_____
<input type="checkbox"/>	third maintenance fee	_____
<input type="checkbox"/>	patent maintenance fee surcharge	_____
<input checked="" type="checkbox"/>	other Notice of Appeal	<u>\$ 330.00</u>
	TOTAL REFUND REQUESTED	<u>\$ 860.00</u>

III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR

An Office Action marked "Final" by the Examiner was mailed on March 23, 2004. On June 23, 2004 a Response to the Office Action was filed, and received by the U.S. Patent and Trademark Office (the Office) on June 25, 2004 as evidenced by the return postcard attached hereto. An interview was conducted with the Examiner regarding the status of the application during which the Examiner stated that the file was in the imaging department. On September 23, 2004 a Notice of Appeal was filed with a Petition for Extension of Time of three months, along with the required fees, and was received by the U.S. Patent and Trademark Office (the Office) on September 27, 2004. An Advisory Action was finally mailed on September 22, 2004.

It is respectfully submitted that if not for the delay of the Patent Office, the fees associated with the Notice of Appeal of \$330.00 and third month Extension of Time of \$530.00 would not have been incurred by the applicant.

Since the Response to the "Final" Office Action was received at the Office on June 25, 2004, an Office Communication should have been issued by July 25, 2004. The delay of more than two months, i.e. July 25, 2004 to September 27, 2004, was directly caused by the Office, and in turn caused the Applicant to incur the costs associated with the Notice of Appeal fee of \$330.00 and third month extension of time, namely \$530.00.

Due to the delay of the issuance of the Advisory Action by the U.S. Patent and Trademark Office, a payment of the Notice of Appeal fee and third month extension of time for a total of \$860.00 was required.

BEST AVAILABLE COPY

IV. MANNER OF REFUND

Please make refund by

X crediting Deposit Account No. 04-1121.

— refunding payment.

Dated: November 23, 2004

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
(516) 228-8484 (tel)
(516) 228-8516 (fax)
PJF/MJM/dr

Respectfully requested,



Paul J. Farrell

Reg. No. 33,494

Attorney for Applicant(s)